

Appendix III

Public Participation

New Jersey certifies that the requirements of 40 C.F.R. §51.102(a) and (d) for public hearings and notice have been met. A public hearing on the proposed State Implementation Plan (SIP) revision was held on Friday, December 17, 2018 at 10:00 a.m. at the New Jersey Department of Environmental Protection (NJDEP). This hearing was held in accordance with the provisions of Section 110(a)(2) of the Clean Air Act, 42 U.S.C. §7410; 40 C.F.R. §51.102(a), the Air Pollution Control Act (1954), N.J.S.A. 26:2C-1 et seq., and the Administrative Procedure Act, N.J.S.A. 52:14 B-1 et seq. Written comments relevant to the proposal were accepted until the close of business, Friday, December 21, 2018.

Notices of the proposed SIP, availability and the public hearing were published on the NJDEP's website and issued on two NJDEP air quality listservs on November 15, 2018. In addition, interested parties not on the NJDEP's listservs were emailed the notice, along with air quality contacts from other states, air quality regional organizations and the United States Environmental Protection Agency (USEPA). Additional notification consisted of emailing the notice to contacts at public libraries throughout the State and to NJDEP's three regional Compliance and Enforcement offices. These notices were issued at least 30 days prior to the public hearing and close of comment period.

Attachment 1 contains documentation of the public notice including:

1. The public notice posted on the website announcing the availability of the proposed SIP revision and the public hearing;
2. The NJDEP website postings; and
3. The NJDEP listserv emails.

During the hearing and comment period, comments were received on the proposed SIP revision. The following persons submitted written comments:

1. Kenneth Fradkin, Air Programs Branch, The U.S. Environmental Protection Agency (USEPA)
2. Tracy R. Babbidge, Chief, Bureau of Air Management, Connecticut Department of Energy and Environmental Protection (CTDEEP)

No persons testified at the public hearing. The submitted comments and the State's responses are summarized below. After each comment is the name of the commenter.

General Comments

1. Comment: The commenter recognizes NJDEP's regional leadership controlling emissions and appreciates the considerable efforts that New Jersey has taken to reduce ozone forming pollutant emissions to date. (CTDEEP)

Response: The NJDEP acknowledges the commenters' support for New Jersey's accomplishments.

Methodology

2. Comment: For the 2008 ozone NAAQS, New Jersey's approach to identifying maintenance receptors does not comply with the requirements of the statute, as outlined by the D.C. Circuit in *North Carolina v. EPA*. New Jersey bases its analysis of downwind air quality problems solely on monitored data and, accordingly, explains that "maintenance sites are the same as the nonattainment sites." Moreover, on page 20, New Jersey notes that the New London, Connecticut (CT) monitor will likely be in attainment in 2018 based on preliminary monitoring data. However, the court's decision in *North Carolina* requires that states and USEPA give "independent significance" to the "interfere with maintenance" clause of the "Good Neighbor" provision, specifically with respect to areas that are attaining the NAAQS but which are at risk of returning to nonattainment. 531 F.3d 896, 910-911 (D.C. Cir. 2005). This is particularly important with respect to ozone levels that can vary based on meteorology. Accordingly, it may not be sufficient to rely only on the most recent measured data to identify areas that should be treated as maintenance receptors for the 2008 ozone NAAQS. (USEPA)

Response: New Jersey's methodology of evaluating 2017 actual monitoring data is more conservative than the USEPA guidance, because the 2023 projected data is beyond the Marginal classification attainment date of July 20, 2018 for the 2008 75 ppb NAAQS and the Serious classification attainment date of July 20, 2021. Therefore, 2023 is past the applicable date of evaluation when control measures are needed upwind to help downwind monitors reach attainment. Regardless, the 2023 Ozone Transport Committee (OTC) modeling data has been evaluated. As shown in the OTC 2023 modeling and OTC Technical Support Document (TSD),¹ all monitors that New Jersey potentially significantly contributes to in the modeling are predicted to be in compliance with the 75 ppb NAAQS based on average and maximum projected design values. The SIP will be revised to make this clarification.

3. Comment: On page 10 and 19 (2015 and 2008 ozone NAAQS), New Jersey explains that modeling to 2023 demonstrates that New Jersey will "significantly contribute" to various monitors because the state's impacts will exceed one percent of the 2015 ozone NAAQS. The commenter notes that the USEPA has used the air quality threshold at Step 2 to determine whether an upwind state contributes to a downwind receptor, but the determination of whether this contribution is "significant" or "interferes with maintenance" is typically determined at Step 3 considering other cost and air-quality factors. (USEPA)

Response: New Jersey was being more conservative in its evaluation of significant contribution and determined significance in Step 2. The SIP has been revised to clarify that receptors identified in Step 2 are monitors that New Jersey "potentially" significantly contributes.

Cross-State Air Pollution Rule Federal Implementation Plan (CSAPR Update FIP)

4. Comment: The commenter recommends that New Jersey clarify whether it intends the SIP submission to replace the CSAPR Update FIP or, alternatively, if the state intends for the SIP submission to demonstrate that no further emission reductions are necessary in the state after implementation of the CSAPR Update. If the state intends to replace the CSAPR Update FIP, the commenter recommends that the state include a demonstration that other control measures in the state SIP will ensure that the EGU emission budgets quantified in the CSAPR Update will

¹ Ozone Transport Commission/Mid-Atlantic Northeastern Visibility Union 2011 Based Modeling Platform Support Document, October 18, 2018. <https://otcair.org/upload/Documents/Reports/OTC%20MANE-VU%202011%20Based%20Modeling%20Platform%20Support%20Document%20October%202018%20-%20Final.pdf>

be met through permanent and enforceable measures. If the state instead intends to remain subject to the CSAPR Update FIP, the commenter recommends that the conclusion be revised to state that the SIP submission will address any remaining “Good Neighbor” obligation for the 2008 ozone NAAQS after implementation of the CSAPR Update. (USEPA)

Response: New Jersey will remain subject to the CSAPR Update FIP.^{2 3} In addition to the partial remedy provided by the CSAPR Update, New Jersey has addressed its obligation through power plant controls more stringent than the CSAPR Update as already discussed in the SIP. The SIP will be revised to clarify this.

Address Nonattainment Area (NAA) Monitors in “Good Neighbor” SIP

5. Comment: The commenter disagrees with New Jersey’s approach to eliminating monitors as potential receptors from consideration because they are located within existing designated multi-state nonattainment areas. The “Good Neighbor” provision of the Clean Air Act (CAA) requires a state to analyze whether “any source or other type of emissions activity within the State” is impacting another state in violation of the “Good Neighbor” provision. On pages 10-11 of its draft submission, New Jersey states that its Attainment Plan Demonstration will contain additional details regarding New Jersey’s assessment for ensuring attainment and maintenance of the 2015 ozone NAAQS. It is not appropriate to rely on a future SIP submission that has not yet been developed to address the state’s current “Good Neighbor” obligation. (USEPA, CTDEEP)

Response: New Jersey did not eliminate monitors as potential receptors for consideration because they were located within shared multi-state nonattainment areas; these monitors were included in the 4-step analysis. The monitors are included in the SIP in Tables 3, 4, and 7 that identify the monitors to which New Jersey “potentially” significantly contributes. Further, as discussed in the SIP and below, New Jersey concludes that the controls New Jersey has adopted and implemented are sufficient for addressing New Jersey’s significant contribution of the 2015 ozone NAAQS because they go beyond the measures taken by other nearby and upwind states and previously established cost effectiveness thresholds. To prevent confusion, NJDEP will revise the SIP to remove references to the future attainment demonstration.

Analysis

6. Comment: The commenter recommends that New Jersey evaluate what the costs would be for any additional control strategies not already implemented in the state and explain whether those controls would be cost-effective to implement under the “Good Neighbor” provision. New Jersey’s reference to the costs of its prior actions relative to the \$1,400/ton cost threshold used in the CSAPR Update does not eliminate the need for any further discussion of costs. More specifically, it does not clarify that there are no reductions below \$1,400/ton (or below the \$/ton costs referenced) remaining. New Jersey may want to speak to the cost and air quality impact of any remaining emission reductions in the state. The use of cost thresholds in prior analyses was to capture all mitigation potential below that level. The fact that more expensive measures have been taken suggest that the lower cost mitigation options have been exhausted, but that implication still needs state verification. Additionally, USEPA notes that \$1,400/ton has not

² 81 FR 74504. Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, Wednesday, October 26, 2016. <https://www.govinfo.gov/content/pkg/FR-2016-10-26/pdf/2016-22240.pdf>

³ 83 FR 65878. Determination Regarding “Good Neighbor” Obligations for the 2008 Ozone National Ambient Air Quality Standard, Friday, December 21, 2018. <https://www.govinfo.gov/content/pkg/FR-2018-12-21/pdf/2018-27160.pdf>

been identified as a cost-effective threshold for the 2015 ozone NAAQS and it is therefore not inherently an “off ramp” for consideration of any potential emission reductions beyond that level. (USEPA)

7. Comment: Although discussion related to control measures, which could be relevant to Step 3, appears elsewhere in the proposed SIP, NJDEP does not evaluate how control measures might decrease contributions New Jersey makes to receptors determined to be linked at Step 2. Rather than continue to Step 3 to evaluate control measures, NJDEP instead ends the process noting that these linked receptors are located within New Jersey's shared multi-state nonattainment area. NJDEP dismisses the need to evaluate control measures. USEPA's 2023 modeling shows New Jersey is projected to contribute more ozone to two of Connecticut's nonattainment monitors than Connecticut. The commenter recommends NJDEP revise its proposed SIP revision to complete the 4-step process and implement control measures that prohibit emissions that significantly contribute to nonattainment or maintenance problems outside its borders. (CTDEEP)

Response to Comments 6 and 7: New Jersey's SIP did not ignore Step 3 or dismiss the need to evaluate control measures; Step 3 and 4 were combined into one discussion as their conclusions are the same for New Jersey. The control measure evaluation was included as Step 3. This has been clarified in the SIP. As discussed in the SIP, New Jersey has adopted all appropriate control measures relevant to reducing the transport of ozone that go beyond the measures taken by other nearby and upwind states and previously established EPA cost effectiveness thresholds. The impact of New Jersey's measures has been demonstrated in the reduction in monitored ozone values in New Jersey monitors. For monitoring data summaries see New Jersey's 2017 Ozone Attainment Demonstration for the 2008 Ozone NAAQS.⁴

New Jersey has implemented statewide early action of aggressive and appropriate control measures before the attainment deadline, unlike other states that significantly contribute to the nonattainment monitors, including New York and Connecticut. New Jersey's power generation rules and high electric demand day rules were effective in 2015 or earlier so that emissions reductions occurred prior to the attainment deadline for downwind nonattainment areas. Although Connecticut has similar rules, they will not be fully effective until 2023. If adopted, New York's recently proposed rule to address simple cycle and regenerative combustion turbines will not be fully effective until 2025 with emission rates like those currently being met in New Jersey. Additionally, there are upwind and significantly contributing states with no control measures established to address the emissions from peaking operations at EGUs that contribute to downwind nonattainment.

New Jersey's evaluation consists of control measures that have already been completed in New Jersey far in advance of other states that resulted in adoption of appropriate and effective rules more stringent than other states and in time for emission reductions to occur prior to the attainment deadline. New Jersey should not be penalized for early action of control measures. Other state's “additional control strategies not already implemented” are the strategies already implemented in New Jersey. New Jersey's previous control measure evaluations and rule adoptions continue to be New Jersey's evaluation for the 2015 ozone NAAQS. New Jersey has met it's “Good Neighbor” obligation.

⁴ NJDEP 1997 84 ppb and 2008 75 ppb 8-Hour Ozone Attainment Demonstration and Nonattainment New Source Review Program Compliance Certification, December 27, 2017.
<https://www.nj.gov/dep/baqp/ozone75ppb/Ozone%2075%20ppb%20Attain%20North-NNSR%20SIP%2012-14-17%20Revised%208-9-18.pdf>

8. Comment: While measures being implemented in the portion of a state that is included in a multi-state nonattainment area may address the impacts of emissions from one part of the state, this does not necessarily address whether the state may also need to address other sources in the state outside the nonattainment area for purposes of the “Good Neighbor” provision. The commenter recommends that New Jersey further evaluate the impacts of emissions throughout the state and analyze whether sources within the nonattainment area and elsewhere in the state will be adequately controlled – whether through the attainment plan or via other measures – to address any such downwind impact on these areas. (USEPA)

Response: All existing New Jersey rules are statewide and not limited to the Northern New Jersey-New York-Connecticut nonattainment area.

9. Comment: The commenter acknowledges NJDEP's progress instituting stationary source control programs to reduce ozone forming pollutant emissions, however there are additional programs NJDEP can implement to further reduce ozone precursor emissions. For example, although the Regional Greenhouse Gas Initiative (RGGI) primarily addresses carbon dioxide emissions from stationary sources, significant ozone co- benefits can be achieved by investing auction proceeds into clean energy deployment and energy efficiency projects. (CTDEEP)

Response: New Jersey continues to be a leader in clean energy and energy efficiency through regulation and other enforceable programs, in addition to proposed re-entry into RGGI. As discussed in the SIP, New Jersey power plant rules are among the most stringent, enforceable, daily standards for NO_x emissions in the country. New Jersey has taken the lead by adopting measures to address emissions from EGUs that operate on High Electric Demand Days (HEDDs) when ozone concentrations tend to be elevated.

New Jersey also has a Renewable Energy Standard statute (N.J.S.A. 48:3-87.9(a)) that establishes one of the most ambitious renewable energy standards in the country by requiring 21 percent of the energy sold in the state be from Class I renewable energy sources by 2020, 35 percent by 2025, and 50 percent by 2030. This includes programs such as Solar, which reforms the state's solar program by making near-term structural changes to ensure that the program is sustainable over the long term; Offshore Wind, which codifies the Governor's goal of 3,500 MW of offshore wind by 2030 and reinstates an expired program to provide tax credits for offshore wind manufacturing activities; Energy Efficiency, which requires each utility to implement energy efficiency measures to reduce annual electricity usage by 2 percent per year and natural gas usage by 0.75 percent per year until the full economic, cost-effective potential is reached; Community Solar, which establishes a community solar energy program to allow all New Jersey residents to benefit from solar energy; and Energy Storage, which codifies the Governor's goal of achieving 600 MW of energy storage by 2021 and 2,000 MW by 2030.

In addition, New Jersey statute N.J.S.A. 48:3-87.5(b) establishes a Zero Emissions Certificate (ZEC) program to maintain New Jersey's nuclear energy supply, which contributes close to 40 percent of the State's electric capacity and is by far New Jersey's largest source of carbon free energy. Executive Order No. 28 directs state agencies to develop an updated Energy Master Plan (EMP) that provides a path to 100 percent clean energy by 2050, integrating established bills and facilitating the implementation of Executive Order No. 8, establishing the Offshore Wind Strategic Plan.

10. Comment: As mobile source emissions account for a large portion of the region's emissions inventory, the commenter recommends NJDEP continue to strengthen its mobile source control program by enhancing its electric vehicle incentives and infrastructure. (CTDEEP)

Response: New Jersey has been a leader in implementing both mandatory and voluntary programs to reduce emissions from mobile sources. New Jersey adopted California's Low Emission Vehicle Program (NJLEV) which requires that the lowest emitting vehicles, including electric vehicles, are delivered for sale in New Jersey. New Jersey also has some of the most stringent rules in the country for vehicle idling and heavy-duty vehicle inspection and maintenance using on-board diagnostics (OBD) technology.

New Jersey's Clean Car Program (N.J.S.A. 26:2C-8.15 et seq.) requires automakers to produce and deliver for sale a certain percentage of Zero Emission Vehicles (ZEVs) in the state. Many states upwind of us have not made the same commitment. The ZEV requirements ramp up beginning in Model Year 2018, and automakers will need to offer a greater number of electric vehicles to comply with the regulation. As of June 2018, there were nearly 17,000 Battery Electric Vehicles and Plug-in Hybrid Electric Vehicles registered in New Jersey. A few short years ago, in 2011, there were only 535 electric vehicles (EVs) registered in the State. New Jersey's EV registrations have grown more than 25 times in only six years.

New Jersey's network of charging stations continues to grow. New Jersey has 517 public charge points (or plugs) at 220 locations. That includes publicly-accessible DC fast charging stations, with 102 public fast chargers at 42 locations. In response to NJDEP's application, the Federal Highway Administration designated five New Jersey highways as "Electric Vehicle Corridors" where DC fast chargers allow worry-free electric travel: I-95, I-295, and sections of I-80, I-78, and I-287. Those highways connect to EV Corridors in neighboring states and throughout the Northeast and Mid-Atlantic region.

New Jersey is engaged in several multi-state and regional collaborative efforts to speed adoption of electric vehicles and build out a robust charging network statewide and throughout the region. In May 2018, Governor Murphy signed the State Zero-Emission Vehicles Programs Memorandum of Understanding (MOU). Through the MOU, New Jersey works collaboratively with other leading states to support the deployment of zero-emission vehicles as part of the Multi-State ZEV Task Force. By signing the MOU, New Jersey joins New York, Vermont, Connecticut, Rhode Island, Oregon, Massachusetts, Maryland, and California in committing to coordinated action to ensure the successful implementation of ZEV programs. Collectively, the states identify joint cooperative and individual actions to build a robust market for ZEVs.

Launched in March 2018, the Drive Change. Drive Electric. initiative represents a unique public-private partnership between auto manufacturers and Northeast states to advance consumer awareness, understanding, consideration and adoption of electric vehicles. The campaign showcases to drivers and passengers the convenience, affordability, technology, sustainability and power performance of EVs.

New Jersey is a founding member of the Transportation and Climate Initiative (TCI), a regional collaboration of 11 Northeast and Mid-Atlantic states and the District of Columbia that seeks to improve transportation, develop the clean energy economy and reduce carbon emissions from the transportation sector. TCI supports the deployment of clean vehicles and fueling infrastructure in TCI states to maximize the economic opportunities and emissions reductions that these vehicles bring to the region. States share best practices and engage with experts and other stakeholders on policies to enable the adoption of cleaner vehicles in the region.

New Jersey exempts battery electric vehicles and fuel cell electric vehicles from state sales and use tax. The tax exemption, which applies to the sale, lease or rental of both new and pre-owned vehicles, is permanent and does not sunset, providing sustainability and certainty to consumers and fleet administrators.

In June 2016, NJDEP launched It Pay\$ to Plug In – New Jersey’s Electric Vehicle Charging Station Grant Program. The grant program helps offset the costs to purchase and install EV charging stations. Eligible applicants can be reimbursed up to \$6,000 per Level 2 charging station. The program has been highly successful, approving \$850,000 worth of applications in the first year. It Pay\$ to Plug In has exhausted its initial funding and has a waiting list of over \$3 million worth of applications.

New Jersey also holds the NJ Charging Challenge – Electrify Your Workplace where NJDEP recognizes New Jersey employers that are making their workplaces “EV-Ready” by providing workplace charging for their employees. The top three winners of the annual contest receive awards at the Governor’s Environmental Excellence Awards ceremony.

NJDEP worked closely with the New Jersey Department of Community Affairs (DCA) to streamline the permitting process so that homeowners can quickly and easily install home chargers. DCA determined that the installation of residential charging equipment is considered “minor work” under state codes and rules. This means that the homeowner or electric contractor need only provide verbal notification to the local code enforcement agency prior to starting the installation. The permit application must then be subsequently filed within five days of the notification. DCA’s action eliminated a waiting period for approval of a permit that could have been as long as three weeks.

NJDEP will be rolling out a series of Electric Vehicle Ride & Drive events in 2019. Ride and Drives provide consumers with the opportunity to test drive multiple EV models and to interact with EV owners, experts and enthusiasts. The events have been proven to be a successful, interactive way to educate the public about EVs and to spur vehicle sales.

EV emissions take place at the source of power generation rather than at the tailpipe. As discussed in the SIP and in the response to comment #9, New Jersey has adopted and implemented several significant measures to reduce emissions from power generation, which therefore also reduce EV emissions in New Jersey.

New Jersey also implements several other voluntary programs to address mobile emissions. These include state voluntary mobile measures such as Transportation Control Measures (TCMs), transportation strategies which reduce mobile source emissions by reducing the number and/or length of vehicle trips and/or improve traffic flow and New Jersey Transportation Planning Authority (NJTPA) Measures, where the NJTPA works with partner agencies to develop and implement projects that benefit air quality through the Transportation Clean Air Measures (TCAM) program. These projects include:

- a program which implements coordinated adaptive “smart” traffic signal systems in certain areas;
- the North Jersey Regional Truck Replacement Program that incentivizes private truck owners to replace old, high-emissions trucks with newer fuel-efficient vehicles;
- the New Jersey Clean Construction Program which provides funding for the modernization of off-road construction equipment, VOC and NO_x;

- the SeaStreak Vessel Repower Project which supports the replacement of engines with cleaner burning units on passenger ferries;
- the Fleet Modernization and Replacement Program for Cargo Handling Equipment to replace approximately 100 old yard tractors or similar yard equipment near the Port Authority;
- replacing older cargo handling equipment such as forklifts.

Alternative Cost Effectiveness Methodology

11. Comment: New Jersey proposes an approach to evaluating the cost-effectiveness of emission reductions under the “Good Neighbor” provision, primarily focused on whether the USEPA has properly evaluated cost-effectiveness regionally. New Jersey also identifies the cost-per-ton of control strategies already implemented in the state. While New Jersey demonstrates their alternative cost-effectiveness recommendation (i.e., daily emission reductions/total cost), it is not clear that they have applied that analysis to their own fleet of emitting sources, and what the implications would be. The commenter recommends that New Jersey also evaluate what the costs would be for any additional control strategies not already implemented in the state and explain whether those controls would be cost-effective to implement under the “Good Neighbor” provision. They could do this using both the prior methods used in the CSAPR rulemakings, as well as the methodology suggested in their draft SIP. (USEPA)

Response: The commenter misinterprets New Jersey’s recommendation. New Jersey is recommending that the alternative cost effectiveness methodology presented in the SIP be applied to other states, where applicable, for the same rules that New Jersey has already adopted. New Jersey does not need to apply the new methodology to its rules because they have already been adopted and implemented. Rules that are already adopted in New Jersey are being rejected by other states and the USEPA as not being cost effective. In New Jersey, these rules were adopted based on the traditional cost effectiveness calculations at a much higher value. The new methodology should be applied in situations that are appropriate. For example, when addressing the ozone NAAQS, which is not an annual standard, emission sources that exhibit more emissions during the ozone season, or on a single ozone season day, should be evaluated based on their daily or seasonal emissions. An annual cost effectiveness is not appropriate to address the ozone NAAQS, which is a short-term standard, for these types of sources. Further, the 2016 CSAPR Update did not effectively require states to operate existing controls on EGUs, as has been demonstrated by existing USEPA Air Markets Program Data. This includes state(s) that are significantly contributing to the nonattainment monitors in New Jersey’s multi-state nonattainment areas.